IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b))

Description of case

Civil Transfer Application No. 12 of 2003, decided on 28.07.2003

Lal Chand ---Petitioner/Applicant

Vs.

Civil Judge (Senior Division) Rudrapur, U.S. Nagar

& others ---Respondents

A.F.R. (Approved for reporting)
~~Not approved for reporting~~

Date 28.07.2003.

Initials of Judge

Note- Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

C-24 No. 12/2003

Hon'ble Rajesh Tandon J.

By the present transfer application under section 24 of Civil Procedure Coe, the petitioner has prayed that the direction may be issued for transferring Civil Suit No. 192 of 1997 and civil Suit No. 161 of 1998 and Contempt Misc. application 34 of 1998 from the Court of Civil Judge (SD), Rudrapur to any other Court of District Dehradun or Hardwar.

Brief facts of the case are that the applicant claimed himself to be the Bhumidhar of Khasara no. 77/1 measuring .04 hectare. He has preferred a suit seeking permanent injunction in the court of Civil Judge (SD), restraining respondents no.2 and 3 from dispossessing the applicant from the aforesaid land.

On an application filed by the respondent Misc. Case no. 34 of 1998 which is also pending before Civil Judge (SD), it has also been stated in paragraph 8 of the transfer application that respondent no.2 and 3 have also filed suit for permanent injunction which has been registered as O.S. No. 161 of 1998.

In paragraph no.9 it has been stated that the suit no. 192 of 1997 and 161 of 1998 are co-related to each other and subject matter also is the same.

The grievance of the petitioner is that since he is unable to attend the Court as he is resident of District Yamuna Nagar. Therefore, he has filed the present transfer application for transferring the suit either Dehradun or Hardwar.

I have heard Sri Rakesh Thapliyal and Sri N.C. Gupta standing counsel for the respondent. No ground for transfer is made out as admittedly the property is situated at Udham Singh Nagar District and both the suits filed by the applicant as well as by the respondents are pending in District Udham Singh Nagar.

Transfer of the suit cannot be made according to the convenience of the plaintiff., the transfer application has no merits and it is rejected. The counsel for the applicant has very fairly stated that orders may be passed for expediting the hearing of the suit.

The applicant is permitted to move application before the District Judge who shall consider the nature of the proceedings and pendency of the cases and also looking into the age of the petitioner he will order expeditious disposal of the suit. The District Judge shall decide the application within one month from filing of the certified copy of this order.

(Rajesh Tandon, J.)

28.07.03
Dhyani